

## §§ 4280.57–4280.61

annual basis until all projects financed with Rural Development Grant proceeds have been repaid or are otherwise retired, whichever occurs last. Thereafter, on a triennial basis until the fund is terminated, the Intermediary will submit to Rural Development the Form RD 4280-1, reporting on the activity of all loans made from the Revolving Loan Fund.

(b) If the Intermediary does not have an existing loan with RUS, the Intermediary will submit a copy of its annual audit to Rural Development within 90 days of its completion. All REDL audits must be conducted in accordance with Generally Accepted Government Auditing Standards or Generally Accepted Accounting Principles and REDG audits in accordance with 7 CFR part 3052.

(c) Rural Development may require Ultimate Recipients that receive loans financed with Grant funds provided under the REDG Program to submit annual audits to comply with Federal audit regulations. In accordance with 7 CFR part 3052, Ultimate Recipients that are nonprofit entities, or a State or local government, may be required to submit an audit subject to the threshold established in OMB Circular No. A-133.

## §§ 4280.57–4280.61 [Reserved]

### § 4280.62 Appeals.

An Intermediary may appeal any appealable adverse decision made by Rural Development that affects the Intermediary in accordance with 7 CFR part 11.

### § 4280.63 Exception authority.

Except as specified in paragraphs (a) through (c) of this section, the RBS Administrator may, on a case-by-case basis, make exceptions to any requirement or provision of this subpart, if such exception is necessary to implement the intent of the authorizing statute in a time of national emergency or in accordance with a Presidentially-declared disaster, or when such an exception is in the best interests of the Federal Government and is otherwise not in conflict with applicable law.

## 7 CFR Ch. XLII (1–1–08 Edition)

(a) *Applicant eligibility.* No exception to applicant eligibility can be made.

(b) *Project eligibility.* No exception to project eligibility can be made.

(c) *Rural area definition.* No exception to the definition of rural area, as defined, can be made.

## §§ 4280.64–4280.99 [Reserved]

### § 4280.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0035. A person is not required to respond to this collection of information unless it displays a currently valid OMB control number.

## Subpart B—Renewable Energy Systems and Energy Efficiency Improvements Program

### § 4280.101 Purpose.

(a) The purpose of this subpart is to provide financial assistance to agricultural producers and rural small businesses for the purpose of purchasing and installing renewable energy systems and energy efficiency improvements in rural areas. Financial assistance to any single entity may be provided as a direct loan, guaranteed loan or grant, or a combination of a loan and grant. This subpart contains the procedures and requirements for providing such financial assistance.

(b) The Agency will allocate funds between the direct, guaranteed, and grant programs each year, including any other terms such as the transfer of funds between these allocations.

### § 4280.102 General.

(a) Sections 4280.103 through 4280.106 discuss definitions, exception authority, appeals, and conflict of interest, which are applicable to all of the funding programs under this subpart.

(b) Eligibility is discussed in terms of both applicants and projects. Section 4280.107 contains the eligibility requirements for applicants and § 4280.108 contains the eligibility requirements for projects.

(c) Section A, §§ 4280.109 through 4280.117, discusses grants. Section

4280.109 discusses the circumstances under which an applicant may qualify to submit a simplified application for a grant. Sections 4280.110 through 4280.114 address grant funding, grant application procedures, required documentation, the evaluation process, and post-grant Federal requirements for both the simplified and full application processes. Sections 4280.115 through 4280.117 address project planning, development, and completion as related to grant servicing.

(d) Section B, §§4280.121 through 4280.160, discusses guaranteed loans. Sections 4280.121 through 4280.126 discuss procedures and requirements for making and processing loans guaranteed by the Agency. Section 4280.128 addresses the application and documentation requirements, separating the requirements for loans over \$600,000 and for loans of \$600,000 or less. Section 4280.129 addresses the evaluation of guaranteed loan applications. Sections 4280.130 through 4280.160 provide guaranteed loan origination and servicing requirements. These requirements apply to lenders, holders, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(e) Section D presents the process by which the Agency will make direct loans.

(f) Section E presents the process by which the Agency will make combined loan and grant funding available.

(g) Appendix A contains the Technical Report requirements for projects with total eligible project costs of \$200,000 or less and Appendix B contains the Technical Report requirements for projects with total eligible project costs greater than \$200,000.

#### §4280.103 Definitions.

Terms used in this subpart are defined in either §4279.2 of this chapter or in this section. If a term is defined in both §4279.2 and this section, it will have, for purposes of this subpart only, the meaning given in this section.

**Agency.** The Rural Business-Cooperative Service or successor Agency assigned by the Secretary of Agriculture to administer the 9006 program. References to the National Office, Finance Office, State Office, or other Agency

offices or officials should be read as prefaced by “Agency” or “Rural Development” as applicable.

**Agricultural producer.** An individual or entity directly engaged in the production of agricultural products, including crops (including farming); livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50 percent or greater of their gross income is derived from the operations.

**Anaerobic digester project.** A renewable energy system that uses animal waste and other organic substrates to produce thermal or electrical energy via anaerobic digestion.

**Annual receipts.** The total income or gross income (sole proprietorship) plus cost of goods sold.

**Applicant.** The agricultural producer or rural small business that is seeking a grant, guaranteed loan, or direct loan, or a combination of a grant and loan, under this subpart.

**Assignment guarantee agreement (Form RD 4279-6) or successor form.** A signed agreement among the Agency, the lender, and the holder containing the terms and conditions of an assignment of a guaranteed portion of a loan.

**Bioenergy project.** A renewable energy system that produces fuel, thermal energy, or electric power from a biomass source, other than an anaerobic digester project.

**Biogas.** Biomass converted to gaseous fuels.

**Biomass.** Any organic material that is available on a renewable or recurring basis, including agricultural crops; trees grown for energy production; wood waste and wood residues; plants, including aquatic plants and grasses; fibers; animal waste and other waste materials; and fats, oils, and greases, including recycled fats, oils, and greases. It does not include paper that is commonly recycled or unsegregated solid waste.

**Borrower.** Any party or parties liable for a direct or guaranteed loan made under this subpart except guarantors.

**Capacity.** The maximum load that an apparatus or heating unit is able to meet on a sustained basis as rated by the manufacturer.

**Commercially available.** A system that has a proven operating history specific